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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA**

8 Jonathan M. Arther,

9 Plaintiff,

10 vs.

11 Corizon Health Inc., a private entity; Dr. Heller,
an individual; Eye Doctors of Arizona, PLLC;
Former Arizona Department of Corrections
12 Director Charles Ryan, Acting Arizona
Department of Corrections Director David
Shinn; Arizona Department of Corrections
Officers John (or Jane) Does 1, 2, 4, 6, 7, 8 and
13 10; Arizona Department of Corrections IFF
Liaison John (or Jane) Doe 9; Arizona
Department of Corrections Officer John Doe –
Ferman; Arizona Department of Corrections
Officer John Doe – Stevens; Nurse and Health
Provider John (or Jane) Doe 3; Nurse and
Health Provider John (or Jane) Doe 5,

14 Defendants.

No. CV20-00189-PHX-JAT (JFM)

15 **DEFENDANTS HELLER AND EYE
DOCTORS OF ARIZONA, PLLC'S
RESPONSE TO NOTICE OF
AUTOMATIC STAY**

16 Defendants Warren Heller, M.D. and Eye Doctors of Arizona, PLLC, object to the
17 application of the automatic bankruptcy stay to Plaintiff's claims against them. Corizon's
bankruptcy does not stay the action against non-debtors. *See In re Chugach Forest Prods., Inc.*,
18 23 F.3d 241, 246 (9th Cir. 1994). Dr. Heller and Eye Doctors of Arizona are non-debtor parties.
As a result, Plaintiff should be required to continue to prosecute his case against them.

19 Dr. Heller and Eye Doctors of Arizona filed a Motion for Summary Judgment on
20 9/16/2022 on the issues of whether Eye Doctors of Arizona acted under color of state law,

1 whether Dr. Heller and Eye Doctors of Arizona were deliberately indifferent to Plaintiff's
2 medical needs, and whether their alleged indifference was the cause of any injury. The Motion
3 was fully briefed on 12/7/2022. The Motion does not take a position against Corizon, Corizon
4 did not object to the Motion, and Corizon will not suffer any prejudice if the Motion is decided
5 in its absence. Thus, the Motion could be heard and decided during a stay of the action against
6 Corizon.

7 As a result, Defendants Dr. Heller and Eye Doctors of Arizona request that the Court not
8 extend the stay to the claims against them, permitting the Motion for Summary Judgment to be
9 resolved during the automatic stay of Plaintiff's claims against Corizon.

10 DATED this 10th day of March 2023.

11 KENT & WITTEKIND, P.C.

12 By /s/ Cynthia Y. Patane
13 Cynthia Y. Patane
14 *Attorneys for Defendants Warren Heller, M.D. and*
Eye Doctors of Arizona, PLLC

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that on this 10th day of March 2023, I caused the foregoing document to
17 be filed electronically with the Clerk of Court through the CM/ECF System for filing and served
18 on counsel of record via the Court's CM/ECF system.

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27 /s/ Deanna Hedegard